

Adulteration of the article was alleged in the libel for the reason that a substance, excessive brine, had been mixed and packed with¹ and substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement in the labels, "Contents 5 Ounces," was false and misleading and deceived and misled the purchaser, and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 20, 1924, the Sea Food Co., Biloxi, Miss., claimant, having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that it be relabeled to bear the following statements: "Slack Filled. Contains excessive brine. Minimum contents 4 oz. Oyster Meat. This size can should contain 5 Oz. Oyster Meat."

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12360. Adulteration and misbranding of canned oysters. U. S. v. H. J. McGrath Co., a Corporation. Plea of guilty. Fine, \$1 and costs. (F. & D. No. 17238. I. S. No. 13468-t.)

At the April, 1924, term of the United States District Court within and for the District of Maryland, the United States attorney for said district, acting upon a report by the Secretary of Agriculture, filed in the district court aforesaid an information against the H. J. McGrath Co., a corporation, trading at Baltimore, Md., alleging shipment by said company, in violation of the food and drugs act as amended, on or about December 31, 1921, from the State of Maryland into the State of Kansas of a quantity of canned oysters which were adulterated and misbranded.

Examination of 12 cans of the article by the Bureau of Chemistry of this department showed an average weight of 9.2 ounces.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, excessive brine, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and had been substituted in part for oysters, which the said article purported to be.

Misbranding was alleged for the reason that the statements, to wit, "Oysters" and "Contents 10 Oz.," borne on the labels attached to the cans containing the article regarding the said article, were false and misleading in that they represented that the article consisted wholly of oysters, and that each of the said cans contained not less than 10 ounces thereof, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of oysters, and that each of the said cans contained not less than 10 ounces thereof, whereas, in truth and in fact, it did not consist wholly of oysters but did consist in part of excessive brine, and each of the said cans did not contain 10 ounces of the article but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On April 6, 1924, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$1 and costs.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12361. Adulteration and misbranding of compound oil and olive oil. U. S. v. Joseph Flione, Pantell Themo, and Louis Berrish (Flione-Themo & Co.). Plea of nolo contendere by Flione. Fine, \$25. (F. & D. No. 17786. I. S. Nos. 1690-v, 1691-v, 1693-v, 1694-v.)

On November 12, 1923, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Joseph Flione, Pantell Themo, and Louis Berrish, copartners, trading as Flione-Themo & Co., Boston, Mass., alleging shipment by said defendants, in violation of the food and drugs act as amended, in various consignments, namely, on or about January 13 and 25, 1923, respectively, from the State of Massachusetts into the State of New Hampshire, of quantities of compound oil, a portion of which was misbranded, and the remainder of which was adulterated and misbranded, and of a quantity of olive oil which was adulterated and misbranded. The compound oil was labeled in part: (Can) "Net Contents One Quart" (or "Net Contents Half Gallon") "Adriatic Brand Superior Quality * * * Oil

A Compound Of Cotton Seed Oil Flavored With High Grade Olive Oil." The olive oil was labeled in part: (Can) "Net Contents One Quart San Marino Brand * * * Pure Olive Oil."

Analysis of a sample of the alleged olive oil by the Bureau of Chemistry of this department showed that it contained approximately 60 per cent of cottonseed oil. Analysis of the product contained in the half-gallon cans of compound oil showed that it contained a small amount of olive oil, if any. Examination of the products involved in all the consignments showed that the cans contained less than the amounts declared on the respective labels.

Adulteration of the alleged olive oil was alleged in the information for the reason that a substance, to wit, cottonseed oil, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and strength and had been substituted in part for pure olive oil, which the said article purported to be. Adulteration of the portion of the compound oil contained in the half-gallon cans was alleged for the reason that a product which contained no olive oil had been substituted for a product flavored with olive oil, which the article purported to be.

Misbranding of the olive oil was alleged for the reason that the statement, to wit, "Pure Olive Oil," borne on the cans containing the article, was false and misleading in that it represented that the said article was pure olive oil, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was pure olive oil, whereas, in truth and in fact, it was not, but was a mixture composed in part of cottonseed oil. Misbranding of the olive oil was alleged for the further reason that it was a product composed in part of cottonseed oil prepared in imitation of olive oil and was offered for sale and sold under the distinctive name of another article, to wit, olive oil.

Misbranding of the portion of the compound oil contained in the half-gallon cans was alleged for the reason that the statement, to wit, "Flavored With High Grade Olive Oil," borne on the cans containing the article, was false and misleading in that it represented that the said article was flavored with high-grade olive oil, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was flavored with high-grade olive oil, whereas, in truth and in fact, it was not flavored with high-grade olive oil, in that it contained no olive oil.

Misbranding was alleged with respect to the products involved in all the consignments for the reason that the statement, to wit, "Net Contents One Quart," borne on the cans containing the olive oil and a portion of the compound oil, and the statement, "Net Contents Half Gallon," borne on the cans containing a portion of the compound oil, were false and misleading in that the said statements represented that each of the said cans contained 1 quart or one-half gallon of the respective articles, as the case might be, and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of the said cans contained 1 quart or one-half gallon of the respective articles, as the case might be, whereas, in truth and in fact, each of the said cans did not contain the amount declared on the label but did contain a less amount.

Misbranding was alleged with respect to the products involved in all the consignments for the further reason that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On December 18, 1923, defendant Joseph Flione entered a plea of nolo contendere to the information, and the court imposed a fine of \$25. The information was placed on file with respect to the defendants Pantell Themo and Louis Berrish.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12362. Adulteration and misbranding of canned oysters and canned shrimp. U. S. v. 605 Cases of Canned Oysters, et al. Consent decree entered, adjudging product to be adulterated and misbranded and ordering its release under bond. (F. & D. No. 17712. I. S. Nos. 6915-v, 6916-v, 6917-v, 6918-v, 6919-v, 6920-v. S. No. C-4099.)

On August 15, 1923, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 1,105 cases of canned oysters and 70 cases of dry-pack shrimp remaining in the original packages, in various lots, at Wichita Falls,